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FISCAL IMPACT STATEMENT

LS 7322

BILL NUMBER: SB 329

NOTE PREPARED: Mar 29, 2005

BILL AMENDED: Mar 24, 2005

SUBJECT: Food and Beverage Taxes.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR: Rep. Saunders

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) The bill extends until December 31, 2015 (instead of December 31, 2004), Henry County's authority to pay for capital improvements with Food and Beverage Tax revenues or to issue bonds or enter into leases or other obligations payable from Food and Beverage Tax revenues. The bill provides that a member of the Capital Improvements Committee may be reappointed upon the expiration of the member's term (current law requires the member to be reappointed). The bill specifies that the county may use the Food and Beverage tax revenues on a pay-as-you-go basis to undertake capital improvements and may pledge other available revenues to the payment of bonds payable from the food and beverage tax. The bill provides that the bonds may be issued for a term of not more than 20 years, with the term including any refunding bonds. The bill removes provisions abolishing the Capital Improvements Committee and County Food and Beverage Tax Council in Henry County.

(B) The bill terminates food and beverage taxes under IC 6-9-25 in Brownsburg, Mooresville, Plainfield, Shipshewana, Avon, Martinsville, Henry County, Monroe County, and Wayne County two years after the retirement of debt financed by the food and beverage taxes.

(C) The bill authorizes the following to adopt an ordinance to impose a food and beverage tax:

- (1) The Town of Avon.
- (2) Martinsville.
- (3) Monroe County (under new IC 6-9-36).

(4) Wayne County and the cities and towns located in Wayne County (under new IC 6-9-35).

Effective Date: (Amended) December 31, 2004 (retroactive); upon passage; July 1, 2005.

Explanation of State Expenditures: (Revised) Under current law, the Food and Beverage Tax is administrated, audited, and collected by the Department of State Revenue. Current cost for the Department of State Revenue to administer, audit, and collect food and beverage taxes is approximately \$0.51 per \$100 of revenue. The Department's current resources are sufficient to absorb the additional costs associated with this proposal.

(A) Given that the Henry County Food and Beverage Tax is already collected by the Department, there should be no new impact to the Department's expenditure under the bill.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) (A) Under current law, the Henry County Food and Beverage Tax Council and the Capital Improvements Committee sunsets on January 1, 2005. The bill would extend the Council and Committee indefinitely.

The bill would also allow any revenue source legally available to Henry County to be used for the payment of bonds or other obligations incurred under the Henry County Food and Beverage Tax statute. Under current law, only revenue from the Food and Beverage Tax is allowed to pay for bonds and other obligations incurred. Bonds would only be allowed to be issued for a period of no more than 20 years. Refunding bonds would also be limited to an original issue period of 20 years.

If other sources of revenue were used to cover Food and Beverage Tax obligations, there would be an indeterminable impact to local expenditures in Henry County. The impact would depend on local action.

Total expenditures from the Henry County Food and Beverage Tax Fund in FY 2004 were \$395,324.

(C) Under current law, if the fiscal bodies of Avon, Monroe County, Wayne County, Wayne County cities and municipalities, and Martinsville were to adopt an ordinance to impose a food and beverage tax, they would be required to send a certified copy of the adopting ordinance to the Department of State Revenue. Additionally, if the tax is imposed by ordinance, these counties and municipality would be required to establish a food and beverage tax receipts fund (FBTRF). The FBTRF would consist of all revenue generated by the proposed tax and interest earned from the investment of money in the fund.

County Food and Beverage Tax Authorities: The bill would establish a nine-member Monroe County Food and Beverage Tax Authority and a nine-member Wayne County Food and Beverage Tax Committee to make recommendations on the use of revenue in the counties' respective FBTRFs. The terms of the Monroe County, authority members would be staggered and expire after two years. Wayne County committee members would also serve staggered terms that would last four years. Unless an ordinance were to designate that the FBTRF would provide a source of compensation for the committee members or the members were to serve without pay, the county fiscal body would likely have to set aside an appropriation or allocation from another county fund to fix compensation.

(C)(1) Under the bill, a food and beverage tax could be adopted by Avon (Hendricks County). Revenue

received by the proposed tax would be used for: sanitary, park/recreational, drainage/flood control, or water treatment facilities. The tax rate imposed would equal one percent under the provisions of the bill.

(C)(2) Under the bill, a food and beverage tax could be adopted by Martinsville (Morgan County). Revenue generated by a tax adopted under this provision, would be used for city hall improvements, new police/fire stations, and sewer/wastewater/storm water management. The tax rate imposed would equal one percent, under this provision of the bill.

(C)(3) Payments received from the collection of the Monroe County tax would be used to for the following projects: convention/conference center or auditorium, public safety facilities or operations, parks and recreation facilities, tourism/economic development projects or parking facilities. The county would receive monthly payments of the food and beverage tax from the Treasurer of State on warrants issued by the Auditor of State.

(C)(4) Food and Beverage taxes collected in Wayne County would be used to promote conventions, visitors, and tourism or to promote economic development. Units adopting the tax would receive monthly payments of the food and beverage tax from the Treasurer of State on warrants issued by the Auditor of State. Revenue from the food and beverage tax received by units from the Auditor of State would be placed by the county auditor into the County or unit FBTRF. The rate of the tax may not exceed 1%.

Explanation of Local Revenues: (Revised) **(A) Summary:** Unlike the Council, the Henry County Food and Beverage Tax remains in effect until the Council adopts an ordinance to rescind the tax. Additionally, the tax cannot be rescinded while there are bonds, leases, or other obligations outstanding. The bill does not increase the Henry County Food and Beverage Tax above its current 1% rate. With respect to local revenues, the provisions of the bill should be revenue neutral.

Background: Under current law, the following capital projects are allowed to be funded by the Henry County Food and Beverage Tax:

- (1) Sanitary sewers or wastewater treatment facilities that serve economic development purposes.
- (2) Drainage or flood control facilities that serve economic development purposes.
- (3) Road improvements used on an access road for an industrial park that serve an economic development purpose.
- (4) A covered horse show arena.
- (5) A historic birthplace memorial.
- (6) A historic gymnasium, community center, main street renovation and picnic and park areas in Knightstown.
- (7) A community park and cultural center.
- (8) Projects for which the county decides to expend Food and Beverage Tax Fund money or that the county issues bonds, other obligations, or enter into leases.
- (9) An ambulance.

Total revenue generated in FY 2004 for the Henry County Food and Beverage Tax was \$410,087.

(C) Revenue Impact Local Food and Beverage Tax: The following table illustrates the breakdown of estimated local revenue that could be generated by the following counties/municipalities from the proposed local food and beverage taxes under the bill:

County/Municipality	CY 2005	CY 2006	CY 2007
Avon (C)(1)	67,000	285,000	303,000
Martinsville (C)(2)	75,000	317,000	332,000
Monroe County (C)(3)		1,685,000	2,357,000
Wayne County (C)(4)*		1,016,000	1,163,000

**Assumes County Adoption only. See (A)(3) below for further explanation on the proposed Wayne County Food and Beverage Tax.*

(C)(1) If the Town of Avon were to pass an ordinance to impose a 1% food and beverage tax, it is estimated the tax would generate **\$67,000** in CY 2005, **\$285,000** in CY 2006, and **\$303,000** in CY 2007.

(C)(2) A food and beverage tax in Martinsville would generate approximately **\$75,000** in CY 2005, **\$317,000** in CY 2006, and **\$332,000** in CY 2007.

(C)(3) The imposition of the Monroe County Food and Beverage Tax is estimated to generate **\$1,685,000** in CY 2006 and **\$2,357,000** in CY 2007. The Food and Beverage Tax is an excise tax on food and beverages prepared and served for sale in the local unit imposing the tax. The tax rate would be 1% and would be collected and remitted in the same manner as the state Sales Tax. The County would not be able to impose the tax before January 1, 2006.

Bloomington Provision: Under the bill, the Monroe County Auditor would be required to transfer food and beverage tax revenue collected from Bloomington establishments to the Bloomington city fiscal officer for deposit into the City's Food and Beverage Tax Receipts Fund. Revenue in the Fund would be used for a convention/conference center or auditorium, parks and recreation facilities, tourism/economic development projects, or parking facilities, or public safety facilities/operations.

The transfer amount would equal the ratio of Bloomington's population to Monroe County's population. Based on US Census Bureau population estimates from the 2000 census, Bloomington's population accounted for approximately 57% of the County's population. Therefore, if 57% of the revenue generated from the proposed countywide tax went to Bloomington, the city could see an estimated **\$969,000** in CY 2006, and **\$1,355,000** in CY 2007. The remaining 43% of the revenue would be maintained by the County.

Collection Allowance: Collection agents for the proposed Monroe County tax, if allowed by county ordinance, would receive an allowance from tax proceeds collected at their place of business. The rate of allowance would be determined by an adopting ordinance.

(C)(4) If adopted by the entire county, the Wayne County Food and Beverage Tax is estimated to generate **\$1,016,000** in CY 2006, and **\$1,163,000** in CY 2007, assuming an ordinance date by September of 2005. The tax estimate is at the rate of 1%. The Food and Beverage Tax is an excise tax on food and beverages prepared and served for sale in the local unit imposing the tax. The tax would be collected and remitted in the same manner as the state Sales Tax.

Wayne County Cities and Towns: Under the bill, a city or town in Wayne County would also have the option to adopt a food and beverage tax. The rate would not be able to exceed 1%. The County would have the first

option to adopt a food and beverage tax until after July 31, 2006, unless the option were waved by ordinance. Beginning August 31, 2006, a city or town in Wayne County would be able to adopt a food and beverage tax.

If a city or town were to adopt a tax under this bill, a countywide tax would not apply to the city or town that were to adopt the food and beverage tax. Therefore, if Wayne County were to adopt a food and beverage tax, under the bill, the revenue generated by the County tax *would decrease* as cities and towns within the County adopted the tax.

Richmond Estimate: Based on Wayne County food and beverage establishment data from the U.S. Bureau, Richmond has approximately 71% of the establishments within Wayne County. Application of this percentage to the Wayne County estimates above would generate an estimated **\$719,000** in CY 2006 and **\$823,000** in CY 2007, in food and beverage tax revenue in Richmond based on the effective date of January 1, of the year following the year of adoption.

The effective date of this provision except Monroe County is July 1, 2005. (Monroe County has an effective date of upon passage.) A three-month lag is applied from the effective date of an ordinance to account for the time required for the county to pass an ordinance and then set up the mechanisms necessary to begin receiving revenue.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Town of Avon; Henry County; Monroe County; Wayne County; Martinsville.

Information Sources: State Budget Agency Auditor's Data: Auditor's Trial Balance, June 30, 2004; Bob Walls, Department of State Revenue; U.S. Census Bureau; U.S. Department of Commerce, Bureau of Economic Analysis; Hendricks County Health Department, (317) 745-9217; LaGrange County Chamber of Commerce, 260-463-2443..

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